

<sup>3</sup> The Board notes that following the November 5, 2021 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **ISSUE**

The issue is whether OWCP properly suspended appellant's wage-loss compensation, effective November 5, 2021, due to his failure to complete a Form EN-1032 as requested.

## **FACTUAL HISTORY**

On August 27, 1981 appellant, then a 42-year-old federal employee, filed a traumatic injury claim alleging that on April 9, 1980 he sustained sprains and strains in the sacroiliac region and displacement of lumbar intervertebral disc without myelopathy while in the performance of duty. OWCP paid him wage-loss compensation on the periodic rolls commencing June 16, 2002.

OWCP periodically requested that appellant submit financial disclosure statements (Form EN-1032), which solicited information about his employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

On May 10, 2021 OWCP notified appellant that he was required to fully answer all questions on the enclosed EN-1032 form and return it within 30 days or his benefits would be suspended. It mailed the notice to his last known address of record.

On May 26, 2021 OWCP received a partially completed EN-1032 form. Appellant had not completed the "certification" section of the form.

In a July 8, 2021 letter, OWCP resent the partially completed EN-1032 form to appellant and requested that he complete the "certification" section of the form. It notified appellant that he was required to fully answer all questions on the enclosed EN-1032 form and that the letter served as a second and final request for him to fully complete and return the enclosed EN-1032 form within 30 days or his benefits would be suspended. OWCP mailed the notice to his last known address of record.

On July 22, 2021 OWCP received another partially completed EN-1032 form. Appellant again had not completed the "certification" section of the form.

By decision dated November 5, 2021, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to his failure to complete the EN-1032 form, as requested. It advised that, if he were to certify the information by signing the form and return the form, his wage-loss compensation benefits would be restored retroactively to the date they were suspended.

## **LEGAL PRECEDENT**

Section 8106(b) of FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.<sup>4</sup>

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<sup>4</sup> 5 U.S.C. § 8106(b).

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work, which the employee has performed for the prior 15 months.<sup>5</sup> If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>6</sup>

### **ANALYSIS**

The Board finds that OWCP properly suspended appellant's wage-loss compensation, effective November 5, 2021, due to his failure to complete a Form EN-1032 as requested.

On May 10, 2021 OWCP provided appellant with an EN-1032 form. It properly advised him that, if he did not fully complete and return the form within 30 days, his benefits would be suspended. In response, on May 26, 2021, appellant submitted an EN-1032 form that was only partially completed. He had not responded to the section which required that he certify the EN-1032 form. OWCP resent appellant the form on July 8, 2021 and requested that he complete, sign, and return it within 30 days. On July 22, 2021 it received another partially completed EN-1032 form, which appellant again left the certification section incomplete.

OWCP was paying appellant wage-loss compensation on the periodic rolls and he was, therefore, required to complete the EN-1032 form. The record indicates that appellant failed to submit a fully completed EN-1032 form within 30 days of OWCP's request. Appellant's failure to file a complete EN-1032 form within 30 days required the suspension of his wage-loss compensation.<sup>7</sup> Thus, the Board finds that OWCP properly suspended his wage-loss compensation, effective November 5, 2021.

On appeal appellant contends that he forgot to sign the form when he sent it in. As explained above, OWCP properly suspended his wage-loss compensation benefits. If, however, appellant signs and submits the completed EN-1032 form, OWCP will reinstate compensation retroactively to the date of suspension if he remains entitled to compensation.<sup>8</sup>

### **CONCLUSION**

The Board finds that OWCP properly suspended appellant's wage-loss compensation, effective November 5, 2021, due to his failure to complete a Form EN-1032 as requested.

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<sup>5</sup> 20 C.F.R. § 10.528. *See also P.B.*, Docket No. 21-069 (issued October 27, 2021); *H.B.*, Docket No. 19-0405 (issued June 26, 2019); *M.S.*, Docket No. 18-1107 (issued December 28, 2018); *C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

<sup>6</sup> *Id.*; *see also id.* at § 10.525.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 5, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 24, 2022  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board